

## REMARKS

### Introduction

The present Amendment is in response to the Examiner's Office Action mailed September 21, 2004. Claims 1-22, 24-34 remain pending.

Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

### Rejections Under 35 U.S.C. § 103

The Office Action rejected claims 1-19 and 24-31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,647,041 to *Verma*. The Office Action rejected claims 20-23 and 32-34 under 35 U.S.C. § 103(a) as being unpatentable over *Verma* in view of U.S. Patent No. 6,690,845 to *Yoshimura*.

The primary reference (*Verma*) cited in the Office Action appears to qualify, if at all, as art under 35 U.S.C. § 102(e)<sup>1</sup>. According to 35 U.S.C. 103(c), “subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

More particularly, at the time the invention was made (serial no. 10/014,679), the instant application was assigned to Genoa Corporation. This information was recorded on December 11, 2001 at Reel/Frame 012382/0936.

At the time the invention was made, *Verma* was also assigned to Genoa Corporation. This information was recorded on May 26, 2000 at Reel/Frame 010827/0487. Thus, U.S. Application Serial No. 10/014,679 and *Verma* were, at the time the invention was made, owned

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<sup>1</sup> Because *Verma* is only citable under 35 U.S.C. § 102(e), Applicant does not admit that it is, in fact, prior art, and Applicant reserves the right to swear behind this reference at a future time.

by Genoa Corporation. As a result, 35 U.S.C. § 103(c) applies to *Verma* and *Verma* does not preclude patentability and should therefore be removed as a reference.

Accordingly, because each of the foregoing rejections of the claims is dependent upon *Verma* as the primary reference, Applicants respectfully request that *Verma* be removed as a reference and that the rejection of the present claims under 35 U.S.C. § 103(a) be withdrawn. For at least these reasons, claims 1-22 and 24-34 are in condition for allowance.

**Conclusion**

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 22<sup>nd</sup> day of February 2005.

Respectfully submitted,



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